

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

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SEP 28 2006

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
 )  
Wastewater Pretreatment Update, U.S. EPA )  
Amendments (July1, 2005 through December )  
31, 2005) )

R06-13  
(Identical-in-Substance Rulemaking-Water)

PC#1

NOTICE

Dorothy Gunn, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Ste. 11-500  
Chicago, Illinois 60601

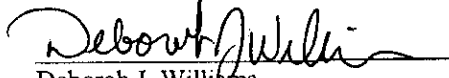
Michael McCambridge, Hearing Officer  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Ste 11-500  
Chicago, Illinois 60601

Matt Dunn  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 12th Floor  
Chicago, Illinois 60601

Bill Richardson, General Counsel  
IL. Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Appearance and Comments on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY  
OF THE STATE OF ILLINOIS

By:   
Deborah J. Williams  
Assistant Counsel

DATE: September 26, 2006  
Illinois Environmental  
Protection Agency  
1021 North Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276

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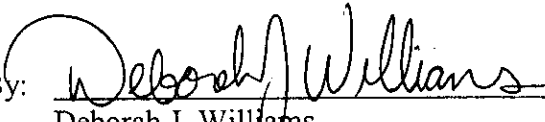
**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD** STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
WASTEWATER PRETREATMENT ) R06-13  
UPDATE, U.S. EPA AMENDMENTS ) (Identical-in-Substance  
(July 1, 2005 through December 31, 2005) ) Rulemaking – Water)  
)

**APPEARANCE**

The undersigned, as one of its attorneys, hereby enters her Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Deborah J. Williams  
Assistant Counsel  
Division of Legal Counsel

DATED: September 26, 2006

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
(217)782-5544

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SEP 28 2006

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD** STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
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WASTEWATER PRETREATMENT ) R06-13  
UPDATE, U.S. EPA AMENDMENTS ) (Identical-in-Substance  
(July 1, 2005 through December 31, 2005) ) Rulemaking – Water)  
)

**COMMENTS OF THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Agency”), by and through one of its attorneys, Deborah J. Williams, and hereby respectfully submits to the Illinois Pollution Control Board (“Board”) its Comments in the above-captioned Identical-in-Substance regulatory proceeding. In support thereof, the Illinois EPA states as follows:

On August 4, 2006, the Board proposed to update the Illinois wastewater pretreatment regulations to incorporate three revisions made by the United States Environmental Protection Agency (“U.S. EPA”) during the second half of calendar year 2005. The relevant federal provisions are found in 70 Fed. Reg. 59848 (October 13, 2005); 70 Fed. Reg. 60134 (October 14, 2005); and 70 Fed. Reg. 73618 (December 13, 2005). These comments concern the first of these federal changes related to requirements for electronic reporting of required documents referred to as the Cross-Media Electronic Reporting Rule (CROMERR).

The federal CROMER rule applies to the submission of electronic information to delegated authorities for various federally authorized programs including the Clean Water

Act. The Board identifies two other identical-in-substance rulemaking dockets in which it has proposed similar amendments in response to CROMERR to address four other sets of identical-in-substance regulations. *See, UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16; RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17; RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (consolidated)(April 6, 2006) and SDWA Update, USEPA Regulations USEPA Regulations (July 1, 2005 through December 31, 2005), R06-15 (July 20, 2006).* To date, no updates have been proposed in response to CROMERR for rules not adopted through identical-in-substance procedures.

On page 6 of its Opinion and Order in this matter, the Board states “Only those filings and electronic document receiving systems approved in advance by USEPA qualify under the CROMERR. Any state system used to receive electronic documents must obtain USEPA approval before the state may use it, except that a state may continue to use an existing electronic document receiving system until October 15, 2007, pending USEPA review and approval.” Slip. Op. at 6. While the Board’s Opinion seems to recognize the grace period provided in CROMERR for existing electronic document receiving systems, the language proposed by the Board in this docket does not specifically address this provision.

In Section 3.3 of CROMERR an “*Existing electronic document receiving system*” is defined as “an electronic document receiving system that is being used to receive electronic documents in lieu of paper to satisfy requirements under an authorized program on October 13, 2005 or the system, if not in use, has been substantially

developed on or before that date as evidenced by the establishment of system services or specifications by contract or other binding agreement.” 70 Fed. Reg. 59881. In Section 3.1000(a)(3), the federal rule provides that:

*Programs already receiving electronic documents under an authorized program:* A state, tribe, or local government with an existing electronic document receiving system for an authorized program must submit an application to revise or modify such authorized program in compliance with paragraph (a)(1) of this section no later than October 13, 2007. On a case-by-case basis, this deadline may be extended by the Administrator, upon request of the state, tribe or local government, where the Administrator determines that the state, tribe, or local government needs additional time to make legislative or regulatory changes to meet the requirements of this part.

70 Fed. Reg. 59882.

The language proposed by the Board in 35 Ill. Adm. Code 310.106(d) provides that “Nothing in this subsection (d) limits the authority of the Board, the Agency, or the Control Authority under the Illinois Environmental Protection Act [415 ILCS 5] to accept documents filed electronically.” But the same Section also seems to limit such authority with regard to federally authorized programs when it states “The Board, the Agency, or the Control Authority may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board, the Agency, or the Control Authority has published a notice of such approval in the Illinois Register.” Slip. Op. at 71.

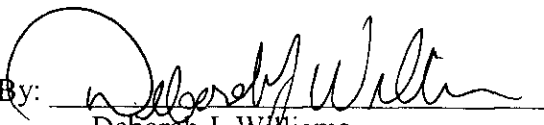
The Illinois EPA is not aware of an specific existing programs for which it intends to take advantage of this grace period under CROMERR that are impacted by these Wastewater Pretreatment Amendments. However, Illinois EPA does intend to take advantage of this language for a number of other programs it is delegated to implement by U.S. EPA. The Agency wants to identify for the Board that the adoption of this

identical-in-substance proceeding should in no way limit the ability of the Agency to take advantage of the grace period for approval of existing programs under CROMERR whether or not those programs are covered by identical-in-substance regulations. In addition, while Illinois EPA is not a delegated pretreatment authority, the CROMERR also applies to units of local government that are delegated to carry out U.S. EPA administered programs. It is theoretically possible that a local pretreatment authority would intend to take advantage of the grace period provided in CROMERR with regard to an existing electronic document receiving system, though Illinois EPA is unaware of any such systems.

The Illinois EPA thanks the Board for this opportunity to submit comments with regard to these amendments and requests that the Board clarify in its Final Opinion in this matter that it does not intend to preclude the use of any available grace periods under the CROMERR for existing electronic document receiving systems for any federally authorized programs.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Deborah J. Williams  
Assistant Counsel  
Division of Legal Counsel

September 26, 2006

1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

STATE OF ILLINOIS     )  
  )  
COUNTY OF SANGAMON )

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Appearance and Comments on behalf of the Illinois Environmental Protection Agency upon the person to whom it is directed, by placing a copy in an envelope addressed to:

Dorothy M. Gunn, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 West Randolph St., Ste 11-500  
Chicago, Illinois 60601

Marie Tipsord, Hearing Officer  
Pollution Control Board  
James R. Thompson Center  
100 West Randolph St., Ste 11-500  
Chicago, Illinois 60601

Matt Dunn  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 12th Floor  
Chicago, IL 60601

Bill Richardson, General Counsel  
IL. Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

and mailing it from Springfield, Illinois on 9-26-06

Meredith Kelley

SUBSCRIBED AND SWORN TO BEFORE ME

this 26<sup>th</sup> day of September, 2006

Brenda Boehner  
Notary Public



**THIS FILING IS SUBMITTED ON RECYCLED PAPER**